



DRED SCOTT v IRENE EMERSON

Justice and the Old Courthouse Trial Packet

Grades 4-12



Prepared by the Museum Education Office

INTRODUCTION

DRED SCOTT TRIAL

Your “Dred Scott Trial and Activity Packet” includes a copy of the script of the Dred Scott Trial which your group will be presenting, as well as some information regarding the trial. We ask that before your visit, you have your group familiarize themselves with the script and also choose their parts for the reenactment which will take place as part of your program. If possible, please make copies of the script and bring them with you on the day of your program. Members of your group who do not have specific parts may serve as a part of the jury. The trial in your packet is based upon Dred Scott’s 1850 trial, in which the court declared him a free man. Each group taking part in the reenactment trial will be allowed to reach their own verdict. The decision is yours. At the conclusion, the ranger assigned to your group will discuss the trial and the significance of the Dred Scott Case.

Any questions or comments on this Teacher Activity Guide are welcome. Contact the Director of Education at:

Jefferson National Expansion Memorial
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St. Louis, MO 63102
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Cast of Characters In Order of Appearance

Narrator

Dred Scott, Plaintiff

Taylor Blow

Irene Emerson, Defendant

Bailiff

Judge Alexander Hamilton

Court Clerk

David Hall, Plaintiff's Lawyer #1

Hugh Garland, Defense Lawyer #1

Alexander Field, Plaintiff's Lawyer #2

Miles H. Clark, Witness

Lyman Norris, Defense Lawyer #2

Members of the Jury

Jury Foreperson



SCENE I

(Narrator, Dred Scott, Irene Emerson, and Taylor Blow are standing in front. Everyone else is seated in audience.)

NARRATOR: Jefferson National Expansion Memorial commemorates the role St. Louis played in westward expansion. A trial which took place in this courthouse over 100 years ago led to a Supreme Court Decision which determined whether or not slavery could exist in the new western territories. The decision made people so angry that it was one of the causes of the Civil War! This story and trial are true. Dred Scott and his family tried to win their freedom from slavery here in St. Louis' Old Courthouse. Beginning in 1846, the case took place in a room below us on the first floor. The people who were part of the case will tell us what happened. The trial took place in 1850 after the Scott's lawyer made a motion for a new trial regarding the first decision.

DRED SCOTT: I am Dred Scott. I'm almost fifty years old now and have been a slave all my life. My first owners, the Blow family, took me from Virginia to St. Louis. They treated me well, but had to sell me to Dr. Emerson, who was in the Army. I worked odd jobs for the Emersons, and was also hired out to work for other people. They kept all the money for themselves. John Emerson took me across the river to Illinois, and from there way up to Fort Snelling in Wisconsin Territory. I don't think there is supposed to be any slavery in those places, but he kept me as a slave. When I heard that I might be able to become free, I started this case. Taylor Blow and other people have helped me. I'm an old man now, and I can't read or write. I'd like for my wife Harriet and daughters Lizzie and Eliza to have a better life than I've had. *(Sit.)*

TAYLOR BLOW: My name is Taylor Blow, and my family used to own Dred Scott. My family is originally from Virginia. After our tobacco crops failed, we moved to St. Louis. Once we got to St. Louis, my father decided he would have to sell Dred because we needed the money. He sold Dred to Dr. Emerson,



an Army Doctor. Over the years, I have not seen much of Dred, and now I want to help him become a free man. (*Sit.*)

IRENE
EMERSON: My name is Irene Emerson. My late husband John owned Dred Scott. He was our servant. Sometimes we hired Dred out to work for other people and he made money for us. John was a doctor in the United States Army, and was sent to Illinois and Wisconsin Territory and took Dred with him. Now that John has died, Dred is suing for his freedom. That doesn't seem fair, Dred has always belonged to us, and we've treated him well. Look at the thanks we get! (*Sit.*)

NARRATOR: All is now ready for the trial to begin. Although nobody knew it at the time, the Dred Scott Case would later become one of the most famous trials in United States history. Let's see what happened. (*Sit.*)

SCENE II

(Everyone except the Judge should be in their places in the courtroom. The Judge stands at door of room.)

BAILIFF: (*Stand and speak loudly.*) All rise. (*Wait for everyone to stand.*) The Circuit Court of St. Louis County is now in session. The honorable Judge Alexander Hamilton presiding.

JUDGE: (*Enter and take seat.*) You may be seated. (*Everyone sits.*) The clerk will call the first case.

CLERK: The case of Dred Scott versus Irene Emerson, your honor.

JUDGE: Are the lawyers in this case ready?

ALL
LAWYERS: We are, your honor.



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- JUDGE: The Clerk will swear in the Jury.
- CLERK: (*Stand.*) The members of the Jury will rise, and raise their right hands. (*Wait for them to do so.*) Do you swear as citizens of St. Louis County that your decision will be based entirely on what you hear in this courtroom today?
- JURY: I do.
- CLERK: You may be seated. (*Jury and Clerk sit down.*)
- JUDGE: Do the lawyers for the plaintiff, Dred Scott, have an opening statement?
- DAVID HALL: Yes, your honor. (*Move to stand in front of Jury.*) Members of the Jury, this is an easy case to decide. Dred Scott has been a slave all of his life. His master, Dr. John Emerson, took him to Fort Armstrong in the State of Illinois and kept him as a slave. As all of you know, the laws of Illinois do not allow slavery. Later, Emerson took Dred Scott to Fort Snelling in Wisconsin Territory, and according to the Missouri Compromise slavery is not allowed there. Even after Emerson left Fort Snelling, he kept Dred Scott as a slave, hiring him out to others in Wisconsin Territory and back in St. Louis. Members of the Jury, we say that Dred Scott became a free man when taken to Illinois and Wisconsin Territory. Just because he was brought back to the State of Missouri, where slavery is allowed, does not make him a slave again. The laws of Illinois, the nation, and even cases just like this one heard before in Missouri, all say that Dred Scott should be free. Not only Dred himself, but his wife Harriet and young daughters Lizzie and Eliza, depend on your decision. (*Sit.*)
- HUGH GARLAND: (*Move to stand in front of Jury.*) Members of the Jury, it is true that slavery is not allowed in Illinois or Wisconsin Territory. But Dr. Emerson was ordered to go there by the Army. Dred Scott was Dr. Emerson's property, and Emerson



wanted to take him along. The laws of the United States Army, not those of Illinois or Wisconsin Territory, should be followed in this case. Dred Scott came back to Missouri, where slavery is allowed. Why should we let the laws of other places change things here in Missouri? When you think of these things, I am sure that you will decide that Dred Scott is a slave. Thank you. (*Sit.*)

JUDGE: Do the lawyers for the plaintiff have any witnesses in this case?

ALEXANDER FIELD: Yes, your honor. We call Captain Miles H. Clark.

BAILIFF: Captain Miles H. Clark to the stand. (*Clark goes to witness stand and remains standing.*)

CLERK: (*Stand and speak to Clark.*) Raise your right hand. Do you swear that the testimony you are about to give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

MILES H. CLARK: I do.

CLERK: You may be seated. (*Both Clerk and Clark sit.*)

FIELD: (*Speak to Clark from in front of Jury.*) What is your name?

CLARK: Miles H. Clark.

FIELD: Capt. Clark, do you know Dred Scott?

CLARK: Yes, when I lived at Fort Armstrong. Dred Scott was Dr. Emerson's slave.

FIELD: Why were you at Fort Armstrong?



CLARK: I was a Captain in the Army. John Emerson was the surgeon at that post.

FIELD: Is slavery legal in Illinois?

CLARK: No.

FIELD: Yet you are saying that Emerson kept Dred Scott in slavery there?

CLARK: Yes, he did.

FIELD: Thank you. I have no further questions. (*Sit.*)

JUDGE: Does the defense wish to cross-examine this witness?

LYMAN NORRIS: Yes, your honor. (*Speak to Clark from in front of the jury.*) Captain Clark, what was Dr. Emerson doing at Fort Armstrong?

CLARK: As I said before, he was a surgeon in the army there.

NORRIS: Captain Clark, as a soldier yourself, would you say that military men have much choice where they serve in the Army?

CLARK: No. We go where they send us.

NORRIS: And what do you bring with you when the Army sends you to a new place?

CLARK: Well, I bring my clothes and all my belongings with me when I move.

NORRIS: And would you say that slaves are property too?

CLARK: Yes, in many states slaves are people considered to be property.



- NORRIS: Thank you. I have no more questions. (*Sit.*)
- JUDGE: The witness may be seated. (*Clark returns to his seat.*) Do the lawyers have any more witnesses?
- DAVID HALL: No. We rest our case.
- JUDGE: Then the defense may begin its case.
- HUGH GARLAND: (*Stand.*) Your honor, we believe that the lawyers for the plaintiff, Dred Scott, have not made a case strong enough to prove he should become a free man. We will present no witnesses.
- JUDGE: So the defense rests?
- GARLAND: Yes. The argument in this case is not about what happened, we agree on that. What we don't agree on is whether or not the plaintiff should be a free man because he lived in free territory. (*Sit.*)
- JUDGE: Very well. Are there any closing arguments?
- ALEXANDER FIELD: (*Stand.*) Yes, your honor. (*Move to speak from in front of the Jury.*) As we have shown, slavery is not allowed in the State of Illinois or the Territory of Wisconsin. And yet, Dr. Emerson broke the law of these places by keeping Dred Scott as a slave, either working for him, or hiring him out to other people. Therefore Dred Scott really became a free man when Dr. Emerson took him to those places. In the past there have been other cases just like this one in the State of Missouri. And in those cases the court decided that a slave taken by his master into a free area becomes a free man, even if they move back to Missouri. Therefore, Members of the Jury, this should be an easy decision for you. You should find the defendant, Mrs. Emerson, guilty of wrongly holding Dred Scott as a slave, and give Dred and his family their freedom. Thank you. (*Sit.*)



- LYMAN NORRIS: Members of the Jury, Mr. Field and Mr. Hall are wrong. Dr. Emerson was the husband of my client, the widow Mrs. Emerson. He served his country in the United States Army, and had no choice where he went. Why should someone in the Army suffer by not being able to bring his property with him when he serves his country? Let's pretend that it is against the law to have horses in Illinois or in the Wisconsin Territory. If what the lawyers for the plaintiff say is true, then you could not take your horse there, and if you did, the horse could be taken away from you when you came back to Missouri! That is why I am sure you will decide that Mrs. Emerson is not guilty, and that Dred Scott should remain a slave. Thank you. (*Sit.*)
- JUDGE: Members of the Jury, in deciding this case, you must keep the following points of law in mind:
1. Slavery is not allowed in the State of Illinois because of its constitution, and not allowed in Wisconsin Territory because of the federal laws which make up the Missouri Compromise.
 2. Slavery is allowed in the State of Missouri because of its constitution and laws.
 3. Hiring out a slave to someone else, and keeping the money yourself, is the same under the law as having your slave work for you.
 4. If you believe that Dred Scott was wrongly held as a slave in either Illinois or Wisconsin Territory, that is evidence that you should find the defendant, Mrs. Emerson, guilty, and award Dred Scott his freedom.
- JUDGE: Members of the Jury, you must reach a verdict based only upon what you have heard in court today. It is your duty to retire, select a foreman, and consider your verdict. Bailiff, take the Jury outside to make that decision.
- RANGER: (*Walk to front of jury box.*) Class, at this time the Bailiff would lead the jury out of the courtroom to a private room where they could discuss the evidence. The Bailiff would stand



outside the jury room door until they all agreed on a verdict, then lead the jury back to their seats in the courtroom. Deliberating in private protects the jury from anyone trying to pressure or influence their verdict. Trying to influence a jury verdict is called **JURY TAMPERING**, and is illegal (a felony).

However, we want every student to observe a jury deliberation in process. Since this is only a reenactment, not a real case, our jury will remain in our class courtroom. **IT IS VERY IMPORTANT WE ALL LISTEN QUIETLY, SO WE DO NOT DISTRACT THEIR DELIBERATION.**

(Jury deliberates and makes a decision.)

JUDGE: Has the Jury reached a verdict?

ONLY ONE VERDICT IS TO BE READ.

IF THE VERDICT IS GUILTY:

JURY Yes, your honor, we, the Jury, find the defendant, Mrs. Irene
FOREPERSON: Emerson, guilty of unlawfully holding the plaintiff, Dred
Scott, as a slave.

JUDGE: The Jury has found the defendant guilty. It is therefore
ordered that Dred Scott and his family be awarded their
freedom. This court is adjourned. *(Hit gavel.)*

(Go to Narrator's part; Scene III.)

IF THE VERDICT IS NOT GUILTY

JURY Yes, your honor, we, the Jury, find the defendant, Mrs. Irene
FOREPERSON: Emerson, not guilty.



JUDGE: The Jury has found the defendant not guilty. It is therefore ordered that Dred Scott and his family be kept as slaves. This court is adjourned. (*Hit gavel.*)



SCENE III

(Everyone returns to their seats in the audience except for Dred Scott, Taylor Blow, Irene Emerson, and the Narrator.)

NARRATOR: In the real Dred Scott Trial of 1850, which the reenactment we have just seen is based upon, the Jury decided that Dred Scott was a free man. But that wasn't the end of the case. Mrs. Emerson did not want to lose the services of valuable slaves like Dred and Harriet Scott. She had her lawyers appeal the decision. This means that a higher court would decide if the verdict in the case was correct according to the law. The Supreme Court of the State of Missouri decided that Dred Scott was still a slave. The Justices said that "times now are not as they were", and from now on, the State of Missouri was going to protect slavery no matter what happened outside the state.

DRED SCOTT: I wasn't sure what to do—it seemed like all of these trials would never end—five trials taking over ten years! My friends and wife asked me to keep going, and I knew I had to fight for what was right.

NARRATOR: Finally, the case reached the Supreme Court of the United States. Chief Justice Taney's opinion said that Dred Scott was still a slave. As a black person, he was not a citizen of the United States, and as a slave, he was his master's property, and Congress had no right to take away someone's property. The most important result of Taney's opinion was that he said slavery could not be restricted from U.S. Territories. Opponents of slavery feared that soon slavery could not be restricted anywhere.



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- IRENE
EMERSON: While the Dred Scott trials were still going on, I married again. My second husband, Calvin Chaffee, thought slavery was wrong. So after the Supreme Court Decision, we transferred ownership of Dred Scott to Taylor Blow.
- TAYLOR
BLOW: On May 28, 1857, I came to the St. Louis Courthouse and issued freedom bonds for Dred Scott, Harriet Scott, and their daughters. Finally they were free. Unfortunately, Dred didn't get to enjoy his freedom long, as he died a little over a year later.
- NARRATOR: Today Dred Scott is buried in Calvary Cemetery in north St. Louis. His grave reads, "Freed from slavery by his friend Taylor Blow." Even though Dred Scott did not win his freedom in the courts, his case eventually led to freedom for all slaves. Many people in the United States felt that slavery was wrong, and they were outraged by the Supreme Court's Dred Scott Decision. Instead of solving the slavery problem, the decision was one of the things that divided the country and led to the Civil War. When the South lost the war, all of the slaves were freed, making sure that Dred Scott's fight for freedom will never be forgotten.

APPENDIX

THE SIGNIFICANCE OF THE DRED SCOTT TRIAL

The most famous case associated with the Old Courthouse is that of two slaves, Dred and Harriet Scott, who in 1846 filed a suit to obtain their freedom from slavery. The case began as a simple local matter. It was not a particularly unusual case and there was no coverage of the trial in the local newspapers. Slaves often sued for their freedom on the grounds that they had been freed by a previous owner's will. Other slaves sued for their liberty because their masters had taken them to a non-slave holding territory and then returned to Missouri. The courts commonly granted freedom in both cases, until this precedent was reversed by the Dred Scott Case.

Dred Scott was brought to St. Louis from Virginia in 1830 by his master, Peter Blow. Later the Blow family sold Scott to Dr. John Emerson, an army surgeon. The slave accompanied his new owner on tours of duty at Rock Island, Illinois, and Fort Snelling in what is now Minnesota. At Fort Snelling, Scott married a slave girl named Harriet who was purchased by Dr. Emerson from a fellow doctor. In 1843, Emerson died, leaving the Scotts to his widow. In April 1846 Dred and Harriet Scott filed suit against Mrs. Irene Emerson for their freedom on grounds of previous residence in free territory.

The Scotts were helped in initiating their suit by Taylor Blow, the son of Dred's old master, who signed bonds for the Scotts when the suit was first filed. The case came to trial in June 1847 in the Missouri Circuit Court, and was lost by the Scotts. They asked for a retrial, and at a second hearing in 1850 the Scotts were given their freedom.

Mrs. Emerson appealed the case to the Missouri State Supreme Court, which in 1852 reversed the decision of the lower court, returning the couple to slavery. Many were not happy with the decision. One of the judges wrote: "Times now are not as they were when former decisions of this subject were made. Since then not only individuals but states have been possessed with a dark and fell spirit in relation to slavery, whose gratification is sought in the pursuit of measures, whose inevitable consequence must be the overthrow and destruction of our government."

After the State Supreme Court Decision, the Dred and Harriet Scott case began to attract national attention and the interest of prominent lawyers. Roswell Field, an accomplished attorney, took on the Scott's case and carried it to the

APPENDIX

THE SIGNIFICANCE OF THE DRED SCOTT TRIAL, CONT.

Federal District Court. In May 1854, that court ruled in favor of Dred Scott's owner. Field immediately appealed to the Supreme Court.

Since the Scotts first filed their suit in 1846, tensions between the North and the South had grown. Laws regarding slavery were passed at local, state and national levels that caused much dissension between the two regions of the country. There was intense interest in the U.S. Supreme Court's decision regarding the Scotts.

The Supreme Court heard the case argued as Dred Scott v Sandford because technically, Scott was now the property of Emerson's brother-in-law, John F. A. Sanford (a clerk misspelled the name of the defendant). The Supreme Court held hearings twice: once in February of 1856 and again the following December. The decision, with which seven Justices agreed and two disagreed, was delivered on March 6, 1857 by Chief Justice Roger Taney, who read the "Opinion of the Court." Basically, the Court decided that because the Scotts were slaves, they were not considered citizens under the Constitution, and therefore could not sue for their freedom in court. The justices also ruled that the ban on slavery in the Missouri Compromise was unconstitutional. Slave owners could not be deprived of their property, and the recently acquired western territories would have to allow slave holders and thus slavery within their borders. The decision struck a blow to the delicate balance of non-slave states versus slave states. Instead of lessening sectional tensions as Taney had hoped, the decision only hastened the nation's slide into Civil War.

Adapted from Donald Dosch, The Old Courthouse: Americans Build a Forum on the Frontier. Jefferson National Expansion Historical Association, 1979.

**VISUAL ILLUSTRATION
HARRIET AND DRED SCOTT**



**FOR MORE INFORMATION ON THIS AND RELATED SUBJECTS,
CONTACT THE FOLLOWING NATIONAL PARKS:**

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www.nps.gov/boaf/

Frederick Douglass National Historic Site
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Lincoln Memorial
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